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Applicants cancel claims 4 and 10. Claims 3 and 9 have previously been canceled. Applicants amend claims 1 and 7 to incorporate the features of canceled claims 4 and 10, respectively. No new matter has been added.

Applicants respectfully request that the Examiner indicate acceptance of the drawings.

Claims 1-2, 4-8, and 10-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,614,808 to Gopalakrishna in view of U.S. Patent No. 6,556,574 to Pearce et al.; and claims 1-2, 4-8, and 10-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,721,334 to Ketcham in view of U.S. Patent No. 5,408,618 to Aho et al. Applicants incorporate the features of claims 4 and 10 to base claims 1 and 7, respectively, and traverse the rejections.

The Examiner cited Pearce et al. and Aho et al. as new combining references that allegedly each disclose the claimed path selecting features, which the Examiner acknowledged were not disclosed in principal references Gopalakrishna and Ketcham. The Examiner relied upon the description in Pearce et al. of a router "[selecting] a route whose packet size field indicates transmission of the largest packet" as alleged disclosure of these features. Col. 23, lines 9-12 of Pearce et al. And the Examiner relied upon the description of "[c]onnection managers [using] the maximum frame size and # of hops indications to locate the best path between the subject nodes" as alleged disclosure of these features. Col. 12, line 68 to col. 13, line 2 of Aho et al.

The cited portions of the references fail to disclose or suggest, however, the claimed feature of selecting a path by excluding the path along the shortest route. Indeed, the cited

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portions of Pearce et al. include description of the shortest route being one alternative that may be included in "some combination" of selection criteria. Therefore, Pearce et al., as cited and relied upon by the Examiner, teach away from the claimed feature of selecting a path by excluding the path along the shortest route. Correspondingly, the cited portions of Aho et al. include description of using "# of hops indications" to locate the best path, and, thus, Aho et al. also teach away from this claimed feature.

Therefore, even assuming, arguendo, that it would have been obvious to one skilled in the art at the time the claimed invention was made to combine Gopalakrishna and Pearce et al., or to combine Ketcham and Aho et al., such combinations would still have failed to disclose or suggest,

"[a] network relay apparatus comprising:
a routing information gathering unit for determining the maximum transmission unit of a transmission path along a route over which packets are to be transmitted;
a combining unit for assembling a combined packet by combining packets up to a length that does not exceed the maximum transmission unit of said transmission path; and
a routing processing unit for selecting a path having the largest maximum transmission unit as a path for said combined packet from among a plurality of transmission paths to the same destination, wherein
said routing processing unit selects a path having the largest maximum transmission unit as a path for said combined packet from among a plurality of transmission paths to the same destination by excluding the path along the shortest route," as recited in claim 1. (Emphasis added)

Accordingly, Applicants respectfully submit that claim 1, together with claims 2 and 5-6 dependent therefrom, is patentable over the cited references, separately and in combination, for at least the foregoing reasons. Claim 7 incorporates features that correspond to those of claim 1

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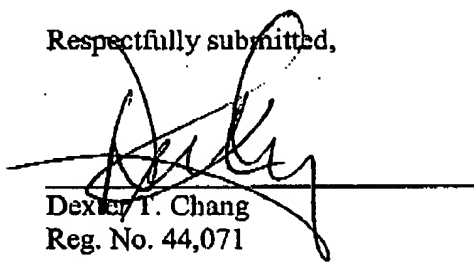
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cited above, and is, therefore, together with claims 8 and 11-12 dependent therefrom, patentable over the cited references for at least the same reasons.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,



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